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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/663,039

09/15/2003

Isaak Volynsky

MAT 3H2

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07/13/2006

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EXAMINER

LOWEN, ALYSSA

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/663,039 | VOLYNSKY, ISAAK | |
| | Examiner | Art Unit | |
| | Alyssa M. Lowen | 3711 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-9, 13-29, 31-34 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura (5989658) and Lee (6830497). Miura discloses a high volume insert for an injection-molded toy figure having a body portion (311, 315, 321 or 327) configured to form an inner supporting structure of an appendage of the toy figure (Fig. 29), which occupies 70% of the volume of an associated portion of the appendage (Figs. 26 & 29). The maximum diameter of the insert extends 75% across a diameter of the associated portion of the appendage (Fig. 29). The insert also has at least one engagement portion for pivotably engaging another portion of the toy figure (Fig. 29). The toy figure has a torso and limbs (Fig. 29) having a soft flesh-like outer layer (column 17 lines 62-64) molded over an inner skeleton including a high volume insert. The body portion is configured to at least partially conform to an outer surface of the appendage (Fig. 29). The body portion can also include a plurality of stabilization pegs (227) for stabilizing the insert within a mold (Fig. 26). The engagement portion is configured to form a pivotable connection with another portion of the toy figure (Fig. 29). Regarding claim 13 the insert has a reinforcement ridge for supporting the engagement portion formed by a raised hook portion on an end of the insert (Fig. 29). The insert (321 or

327) has a first engagement portion for engaging the torso portion of the toy figure and a second engagement portion for engaging a limb portion (311 or 315) of the toy figure where the engagement portions include semicircular edges that rotate smoothly within an outer covering of the toy (Fig. 29). Lee discloses a hollow body portion (142) formed of a first body segment (142a) and a second body segment (142b) detachably joined together to form the hollow body (Fig. 2). It would have been obvious to one of ordinary skill in the art from the teaching of Lee to have two body segments attachable to form a hollow insert in order to allow movable joint members to be attached to the body segment for increased motion (column 8 lines 20-41).

3. Claims 7 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura and Lee in view of Dahl (3284947). The device of Miura and Lee discloses the basic inventive concept substantially as claimed with the exception of the insert being frustoconical in shape. However, Dahl shows a toy figure with an insert that is frustoconical shaped (12L) showing this feature to be old in the art. It would have been obvious to one of ordinary skill in the art from the teaching of Dahl to have an insert with a frustoconical shape in order to give a more realistic appearance and shape to the doll.

4. Claims 10-12, 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura and Lee in view of Piotrovsky (4470784). The device of Miura and Lee discloses the basic inventive concept as applied to claims 1 and 31 above, substantially as claimed with the exception of the engagement portion including a cylindrical boss protruding from a tab having a convex surface. Piotrovsky discloses a cylindrical boss (36) for pivotably connecting an insert to another portion of the toy

figure attached to a tab (34) having a convex surface for supporting the boss (Fig. 2). It would have been obvious to one of ordinary skill in the art from the teaching of Piotrovsky to have the engagement portion include the cylindrical boss in order to pivotably connect an appendage to a figure toy so that the appendage would be movable.

Response to Arguments

5. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

6. Although the Miura reference does not specifically mention the material density or volume of the insert, figures 26 and 29 appear to show an insert that occupies 70% of the volume of the appendage and has a maximum diameter that extends 75% across the diameter of the appendage. Furthermore, a modification that involves a mere change in the size of a component is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AML



EUGENE KIM
SUPERVISORY PATENT EXAMINER